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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,198	10/24/2005	Johannes Kostner	AT 020057	7066

7590 02/10/2009  
Corporate Patent Counsel  
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EXAMINER
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ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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02/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,198	<b>Applicant(s)</b> KOSTNER ET AL.	
	<b>Examiner</b> GHASSEM ALIE	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03/01/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/17/08 has been entered, wherein claims 5-7 have been amended.

***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure includes information which is not accurate. The abstract recites, "a spring of a U-shaped configuration has a cross-member connected to the main part." This is not accurate, since the cross-member of the U-shaped spring is connected to the head part instead of the main part. This is clearly shown in Fig. 3 of the instant invention. In addition, the specification discloses that the U-shaped spring "[i]n the region of its cross-member 56, the spring 55 is connected to the head part, that is to say to the motor-mounting

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27 of the head part 3.” See page 7, lines 29-31 of the specification.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 7, “a spring of a U-shaped configuration has a cross-member connected to the main part and two sides co-operating with at least one position extension connected to the main part” is not clear. It should be noted that the U-shaped spring is connected to the head part and the main part. The cross-member of the U-shaped spring is connected to the head part, instead of the main part. That is clearly shown in Fig. 3 of the instant application. In fact, the the specification discloses that the U-shaped spring “[i]n the region of its cross-member 56, the spring 55 is connected to the head part, that is to say to the motor-mounting 27 of the head part 3.” See page 7, lines 29-31 of the specification.

In addition, the terms “U-shaped” are indefinite as it is not clear what structure the term encompasses. To what extent must an element look like a “U” in order to be considered “U-shaped”? For example, the distal end of the legs or sides of the spring 55 are bent inwardly and do not concur with a U-shaped configuration. See Fig. 3 of the drawings.

***Claim Rejections - 35 USC § 102***

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 6-7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Volz (1,810,152). Regarding claim 7, Volz teaches a personal care apparatus including a hair trimmer; a main part 1 and a head part 4, 24, the main part being adapted to be held in one hand and having a region 3 adjacent the head part, wherein the head part is connected to the main part in the region 3 of the main part that is adjacent the head part and is pivotable relative to the main part about an axis of pivot. It should be noted that the head part 4, 22, 24 at least pivot slightly in response to external or displacing forces along a pivoting axis adjacent to the region 3. See page 2, lines 1-10. Volz also teaches a personal care tool 4, 24 provided on the head part and comprising a toothed cutting mechanism that has at least one drivable toothed blade 24; a spring 18 of a U-shaped configuration that is connected to the main part in the region of its cross member and that co-operates with at least one positioning extension 22 connected to the head in the region of each of its two sides, wherein the spring acts between the head part and the main part, and the head part is pivotable by the spring in synchronization with varying displacing forces that act on the head part in the course of a personal care process, and wherein the head part is adapted for positioning by the spring in a defined rest position relative to the main part when there are no displacing forces present. See Figs. 1-3 in Volz.

Regarding claim 6, Volz teaches everything noted above including that the main part,

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when held in one hand, projects from the hand in a direction of projection, and wherein the axis of pivot extends substantially parallel to the direction of projection.

8. Claim 5-7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Walton (3,589,007). Regarding claim 7, Walton teaches a personal care apparatus including a hair trimmer; a main part 26 and a head part 48-50, 65 the main part being adapted to be held in one hand and having a region adjacent the head part, wherein the head part is connected to the main part in the region of the main part that is adjacent the head part and is pivotable relative to the main part about an axis of pivot. It should be noted that the head part 48-50m 65 at least pivot slightly along a pivoting axis adjacent to the region in response to external or displacing forces applied to the tip of the blades 48, 49. Walton also teaches a personal care tool 48, 49 provided on the head part and comprising a toothed cutting mechanism that has at least one drivable toothed blade 49; a spring 75 of a U-shaped configuration that is connected to the main part in the region of its cross member and that co-operates with at least one positioning extension 66 connected to the head in the region of each of its two sides, wherein the spring acts between the head part and the main part, and the head part is pivotable by the spring in synchronization with varying displacing forces that act on the head part in the course of a personal care process, and wherein the head part is adapted for positioning by the spring in a defined rest position relative to the main part when there are no displacing forces present. See Figs. 1-13 in Walton.

Regarding claim 5, Walton teaches everything noted above including a motor 35, 40 is provided to drive the drivable toothed blade 49, wherein the motor is accommodated in head part. It should be noted that at least the drive shaft is accommodated in the head area or

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head part of the personal care apparatus. See Fig. 5.

Regarding claim 6, Walton teaches everything noted above including that the main part, when held in one hand, projects from the hand in a direction of projection, and wherein the axis of pivot extends substantially parallel to the direction of projection.

### ***Response to Amendment***

9. Applicant's arguments filed on 11/14/08 have been fully considered but they are not persuasive.

Applicant asserts that claim 7 points out and distinctly claims the subject matter of the invention. However, as stated above, "a spring of a U-shaped configuration has a cross-member connected to the main part and two sides co-operating with at least one position extension connected to the main part" is not accurate, since the cross-member of the U-shaped spring is connected to the head part, instead of the main part.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Beytel et al. (6421,922) teach a spring with a U-shaped configuration connected to a head part and a main part of a personal care apparatus.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ghassem Alie/

Primary Examiner, Art Unit 3724

February 6, 2009